

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ERIN JO CHASKEY,

Plaintiff,

v

ONAWAY AREA COMMUNITY
SCHOOLS; MARTY MIX; ROD
FULLERTON; MICHAEL BENSON;
MICHAEL HART; MINDY HORN;
PRESQUE ISLE COUNTY, JOSEPH
BREWBAKER; DAVID SCHMOLDT;
and KENNETH RADZIBON,

Defendants.

)
)Case No.: 1:22-cv-11380-TLL-PTM

)
) HON. THOMAS L. LUDINGTON

)
) MAGISTRATE JUDGE
) PATRICIA T. MORRIS

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**DEFENDANTS ONAWAY AREA COMMUNITY SCHOOLS,
MARTY MIX, ROD FULLERTON, MICHAEL BENSON,
MICHAEL HART & MINDY HORN'S ANSWER TO
PLAINTIFF'S FIRST AMENDED COMPLAINT**

NOW COME the above-named Defendants, ONAWAY AREA COMMUNITY SCHOOLS, MARTY MIX, ROD FULLERTON, MICHAEL BENSON, MICHAEL HART & MINDY HORN, by and through their attorney, GREGORY W. MAIR, and for their Answer to Plaintiff's First Amended Complaint, states as follows:

INTRODUCTION

1. The Defendants, ONAWAY AREA COMMUNITY SCHOOLS, MARTY MIX, ROD FULLERTON, MICHAEL BENSON, MICHAEL HART & MINDY HORN, (hereinafter referred to as "District Defendants") deny the allegations of Plaintiff's First Amended Complaint in its entirety and aver that at all times relevant, they acted properly and in conformance with federal and state law(s) of which the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

2. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint in the manner and form alleged and deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

3. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

4. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as to the demeanor of the Plaintiff and, further, deny that any injury was caused to the Plaintiff, of which they deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

5. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint regarding the criminal matters as it was beyond their care, custody and control and, further, deny that the Plaintiff has suffered any damages relative to the allegations contained in the Plaintiff's First Amended Complaint, of which the District Defendants deny in its entirety.

PARTIES

6. The District Defendants generally admit the allegations of said Paragraph of Plaintiff's First Amended Complaint regarding the Plaintiff and her family and, further, deny the remaining allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

7. The District Defendants generally admit the allegations of said Paragraph of Plaintiff's First Amended Complaint, upon information and belief.

8. The District Defendants generally admit the allegations of said Paragraph of Plaintiff's First Amended Complaint as being an accurate recitation pertaining to the individual Defendant referenced in said Paragraph, of which the

District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

9. The District Defendants generally admit the allegations of said Paragraph of Plaintiff's First Amended Complaint as being an accurate recitation pertaining to the individual Defendant referenced in said Paragraph, of which the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

10. The District Defendants generally admit the allegations of said Paragraph of Plaintiff's First Amended Complaint as being an accurate recitation pertaining to the individual Defendant referenced in said Paragraph, of which the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

11. The District Defendants generally admit the allegations of said Paragraph of Plaintiff's First Amended Complaint as being an accurate recitation pertaining to the individual Defendant referenced in said Paragraph, of which the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

12. The District Defendants generally admit the allegations of said Paragraph of Plaintiff's First Amended Complaint as being an accurate recitation pertaining to the individual Defendant referenced in said Paragraph, of which the

District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

13. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint leaving Plaintiff to her strict proofs thereof.

14. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint leaving Plaintiff to her strict proofs thereof.

15. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint leaving Plaintiff to her strict proofs thereof.

16. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint leaving Plaintiff to her strict proofs thereof.

JURISDICTION AND VENUE

17. The District Defendants admit the allegations of said Paragraph of Plaintiff's First Amended Complaint as being an accurate recitation of what the Plaintiff has brought forward in this action, of which the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

18. The District Defendants admit the allegations of said Paragraph of Plaintiff's First Amended Complaint upon information and belief.

19. The District Defendants deny that the Plaintiff has suffered any damages in connection with the allegations contained in her First Amended Complaint.

20. The District Defendants admit the allegations of said Paragraph of Plaintiff's First Amended Complaint as being an accurate recitation relative to the allegations contained in Plaintiff's First Amended Complaint, of which the District Defendants deny any liability and/or damages in connection with same.

STATEMENT OF FACTS

21. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint to the extent that same relates to the Plaintiff's awareness and/or behavior of which the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

22. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint leaving Plaintiff to her strict proofs thereof.

23. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint in the manner and form alleged and aver that

they acted properly in accordance with the policies and procedures set forth by the school District of which the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

24. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint in the manner and form alleged of which the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

25. The District Defendants admit only the allegations of said Paragraph of Plaintiff's First Amended Complaint to the extent that she attended certain Board meetings, including the time period referenced in said Paragraph of Plaintiff's First Amended Complaint and, further, deny the remaining allegations of said Paragraph of Plaintiff's First Amended Complaint in the manner and form alleged, of which the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

26. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

27. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint to the extent that same infers the position of

the District's Board of Education and, further, the District Defendants neither admit nor deny the remaining allegations of the Plaintiff's First Amended Complaint leaving Plaintiff to her strict proofs thereof.

28. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint in the manner and form alleged, of which the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

29. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint to the extent that same infers the actions undertaken by the Plaintiff and, further, deny the remaining allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue, unfounded or otherwise inaccurate.

30. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint leaving Plaintiff to her strict proofs thereof.

31. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint in the manner and form alleged.

32. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint in the manner and form alleged.

33. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint in the manner and form alleged.

34. The District Defendants admit the allegations of said Paragraph of Plaintiff's First Amended Complaint only to the extent that the Plaintiff appeared on campus unannounced and improperly accessed the school building at the time period referenced in said Paragraph of Plaintiff's First Amended Complaint and, further, District Defendants deny the remaining allegations as being inaccurate, unfounded or otherwise untrue.

35. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint in the manner and form alleged and, further, deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

36. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint in the manner and form alleged, of which they deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

37. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint in the manner and form alleged and aver that Defendant Fullerton provided instructions to the Plaintiff for filing for an open board position which was available online.

38. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint leaving Plaintiff to her strict proofs thereof.

39. The District Defendants admit the allegations of said Paragraph of Plaintiff's First Amended Complaint as being an accurate recitation of their actions of which they deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

40. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint.

41. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint in the manner and form alleged.

42. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint leaving Plaintiff to her strict proofs thereof.

43. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint regarding the allegations pertaining to the District Defendants, of which the District Defendants aver they had no control over when or where a felony warrant would be issued against the Plaintiff and, further, the District Defendants deny any liability and/or damages relative to the allegations contained in the Plaintiff's First Amended Complaint.

44. The District Defendants deny the allegations of said Paragraph of Plaintiff's Complaint as they pertain to conduct attributed to the District or the individuals affiliated with it and, further, the District Defendants neither admit nor deny the remaining allegations of said Paragraph of Plaintiff's First Amended Complaint leaving the Plaintiff to her strict proofs thereof.

45. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint in the manner and form alleged.

46. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint leaving Plaintiff to her strict proofs thereof.

47. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint leaving Plaintiff to her strict proofs thereof.

48. The District Defendants make no response regarding the allegations pertaining to what is shown on the video footage depicting the Plaintiff's appearance on District property and, further, the District Defendants neither admit nor deny the remaining allegations contained in said Paragraph of Plaintiff's First Amended Complaint leaving Plaintiff to her strict proofs thereof.

49. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

50. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

51. The District Defendants deny having any ability to "issue a search warrant," and, further, deny any liability and/or damages relative to the allegations contained in the Plaintiff's First Amended Complaint.

52. The District Defendants deny having any ability to "issue a search warrant," and, further, deny any liability and/or damages relative to the allegations contained in the Plaintiff's First Amended Complaint.

53. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint in the manner and form alleged.

54. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint leaving Plaintiff to her strict proofs thereof.

55. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint in the manner and form alleged.

56. The District Defendants neither admit nor the deny the allegations of said Paragraph of Plaintiff's First Amended Complaint leaving Plaintiff to her strict proofs thereof.

57. The District Defendants make no response regarding the actions of counsel in his communications with the District as same speaks for itself, of which

the District Defendants deny any liability and/or damages relative to the allegations contained in the Plaintiff's First Amended Complaint.

58. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

59. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

60. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint in the manner and form alleged.

61. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

62. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

63. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

64. The District Defendants admit that the no trespass order remained in full force and effect consistent with District policy, of which the District Defendants deny any liability and/or damages in connection with the allegations

contained in the Plaintiff's First Amended Complaint.

65. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

66. The District Defendants deny the existence of any defamatory statements and, therefore, no retraction has been issued and, further, District Defendants deny any damages relative to the allegations contained in said Paragraph of Plaintiff's First Amended Complaint.

67. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint leaving Plaintiff to her strict proofs thereof.

68. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

69. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint leaving Plaintiff to her strict proofs thereof.

COUNT I
42 U.S.C. § 1983
VIOLATION OF THE FIRST AND FOURTH AMENDMENTS –
RETALIATION

70. District Defendants incorporate herein by reference their Answers to Paragraphs 1 – 69 of Plaintiff's First Amended Complaint as if set forth herein in its entirety, word for word.

71. The District Defendants make no response regarding the constitutional authority cited in said Paragraph of Plaintiff's First Amended Complaint, of which the District Defendants deny any liability and/or damages relative to the allegations contained in the Plaintiff's First Amended Complaint.

72. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

73. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

74. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

75. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

76. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

77. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

78. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

79. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

80. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

81. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

COUNT II
42 U.S.C. § 1983
VIOLATION OF THE FIRST AMENDMENT – RIGHT TO PETITION

82. District Defendants incorporate herein by reference their Answers to Paragraphs 1 – 81 of Plaintiff's First Amended Complaint as if set forth herein in its entirety, word for word.

83. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

84. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

85. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint leaving Plaintiff to her strict proofs thereof.

86. The District Defendants make no response regarding the constitutional authority cited in said Paragraph of Plaintiff's Complaint as same speaks for itself, of which the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

87. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

88. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

89. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

90. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

COUNT III
42 U.S.C. § 1983
VIOLATION OF THE FOURTH AMENDMENT
SEIZURE WITHOUT PROBABLE CAUSE

91. District Defendants incorporate herein by reference their Answers to Paragraphs 1 – 90 of Plaintiff's First Amended Complaint as if set forth herein in its entirety, word for word.

92. The District Defendants make no response regarding the constitutional authority cited in said Paragraph of Plaintiff's First Amended Complaint as same speaks for itself, of which the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

93. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

94. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

95. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

96. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

97. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

98. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

99. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

100. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

COUNT IV
42 U.S.C. § 1983
VIOLATION OF THE FOURTH AMENDMENT – FALSE ARREST

101. District Defendants incorporate herein by reference their Answers to Paragraphs 1 – 100 of Plaintiff's First Amended Complaint as if set forth herein in its entirety, word for word.

102. The District Defendants make no response regarding the constitutional authority cited in said Paragraph of Plaintiff's First Amended Complaint as same speaks for itself, of which the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

103. The District Defendants deny any violation of any rights referenced in said Paragraph of Plaintiff's First Amended Complaint.

104. The District Defendants deny any violation of any rights referenced in said Paragraph of Plaintiff's First Amended Complaint.

105. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

106. The District Defendants deny any violations referenced in said Paragraph of Plaintiff's First Amended Complaint and aver that the individual Defendants are entitled to qualified immunity consistent with the allegations contained in the Plaintiff's First Amended Complaint, of which the District Defendants deny any liability and/or damages in connection with same.

107. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

108. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

COUNT V
42 U.S.C. § 1983
VIOLATION OF THE FOURTH AMENDMENT–
MALICIOUS PROSECUTION
MCL 600.2907

109. District Defendants incorporate herein by reference their Answers to Paragraphs 1 – 108 of Plaintiff’s First Amended Complaint as if set forth herein in its entirety, word for word.

110. The District Defendants deny the allegations of said Paragraph of Plaintiff’s First Amended Complaint as being legally and factually untrue.

111. The District Defendants make no response regarding the legal authority cited in said Paragraph of Plaintiff’s First Amended Complaint as same speaks for itself, of which the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff’s First Amended Complaint, including a complete denial that they can be held responsible for malicious criminal prosecution.

112. The District Defendants make no response regarding the Michigan statutory authority cited in said Paragraph of Plaintiff’s First Amended Complaint, of which same speaks for itself and, further, the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff’s First Amended Complaint including statutes cited in said Paragraph of Plaintiff’s First Amended Complaint.

113. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

114. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

115. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint leaving Plaintiff to her strict proofs thereof.

116. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint leaving Plaintiff to her strict proofs thereof.

117. The District Defendants deny it caused the Plaintiff to suffer any injury including a "special injury" relative to the allegations contained in said Paragraph of Plaintiff's First Amended Complaint.

118. The District Defendants deny they initiated any criminal prosecution as they do not have the authority to do such an act and, further, the District Defendants deny any liability and/or damages in connection with allegations contained in said Paragraph, as well as the Plaintiff's First Amended Complaint.

119. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

COUNT VI
42 U.S.C. § 1983
VIOLATION OF THE FOURTH AMENDMENT
EXCEEDING SCOPE OF SEARCH WARRANT

120. District Defendants incorporate herein by reference their Answers to Paragraphs 1 – 119 of Plaintiff’s First Amended Complaint as if set forth herein in its entirety, word for word.

121. Upon information and belief, the District Defendants deny the allegations of said Paragraph of Plaintiff’s First Amended Complaint as the matter was investigated by law enforcement.

122. The District Defendants deny that they authorized or perfected any search warrant relative to the allegations contained in the Plaintiff’s First Amended Complaint, of which the District Defendants deny any liability and/or damages in connection with the allegations contained in Plaintiff’s First Amended Complaint.

123. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff’s First Amended Complaint leaving Plaintiff to her strict proofs thereof.

124. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff’s First Amended Complaint leaving Plaintiff to her strict proofs thereof.

125. The District Defendants make no response regarding the allegations contained in said Paragraph of Plaintiff’s First Amended Complaint as same does

not appear to be alleged against them and, further, to the extent that the allegations of said Paragraph of Plaintiff's First Amended Complaint are against these District Defendants, they deny same in their entirety.

126. The District Defendants deny any violation cited in said Paragraph of Plaintiff's First Amended Complaint and, further, aver that they are entitled to qualified immunity relative to the individual District Defendants.

127. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

128. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

COUNT VII
42 U.S.C. § 1983
VIOLATION OF THE FOURTEENTH AMENDMENT – DUE PROCESS

129. District Defendants incorporate herein by reference their Answers to Paragraphs 1 – 128 of Plaintiff's First Amended Complaint as if set forth herein in its entirety, word for word.

130. The District Defendants make no response regarding the constitutional authority cited in said Paragraph of Plaintiff's First Amended Complaint, of which same speaks for itself and, further, the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

131. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint leaving Plaintiff to her strict proofs thereof.

132. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

133. The District Defendants deny the allegations contained in said Paragraph of Plaintiff's First Amended Complaint in its entirety.

134. The District Defendants deny the allegations contained in said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

135. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

136. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

137. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

138. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

139. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

140. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

COUNT VIII
42 U.S.C. § 1983
VIOLATION OF THE FOURTEENTH AMENDMENT – DUE PROCESS
VIOLATION OF 1963 CONST, ART 1, § 17
VIOLATION OF MCL 380.10

141. District Defendants incorporate herein by reference their Answers to Paragraphs 1 – 140 of Plaintiff's First Amended Complaint as if set forth herein in its entirety, word for word.

142. The District Defendants make no response regarding the Michigan statutory authority cited in said Paragraph of Plaintiff's First Amended Complaint as same speaks for itself, of which the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

143. The District Defendants make no response regarding the authority cited in said Paragraph of Plaintiff's First Amended Complaint as same speaks for itself and calls for a legal conclusion, of which the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

144. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

145. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

146. The District Defendants make no response regarding the legal authority cited in said Paragraph of Plaintiff's First Amended Complaint as same speaks for itself and calls for a legal conclusion, of which the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

147. The District Defendants neither admit nor deny the allegations of said Paragraph of Plaintiff's First Amended Complaint leaving Plaintiff to her strict proofs thereof.

148. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

149. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint in the manner and form alleged and aver that they acted properly in conformance with all policies, procedures and practices governing their operation as a whole.

150. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

151. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

152. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint in the manner and form alleged.

153. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

154. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

COUNT IX
42 U.S.C. § 1985
CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS

155. District Defendants incorporate herein by reference their Answers to Paragraphs 1 – 154 of Plaintiff's First Amended Complaint as if set forth herein in its entirety, word for word.

156. The District Defendants make no response regarding the federal statutory authority cited in said Paragraph of Plaintiff's First Amended Complaint, of which the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

157. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

158. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

159. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

160. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue, including the allegations delineated in the six (6) bullet points cited in said Paragraph of Plaintiff's First Amended Complaint.

161. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

162. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

163. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

COUNT X
42 U.S.C. § 1986
NEGLECT TO PREVENT

164. District Defendants incorporate herein by reference their Answers to Paragraphs 1 – 163 of Plaintiff's First Amended Complaint as if set forth herein in its entirety, word for word.

165. The District Defendants make no response regarding the federal statutory authority cited in said Paragraph of Plaintiff's First Amended Complaint as same speaks for itself, of which the District Defendants deny any liability and/or

damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

166. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

167. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

168. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

COUNT XI
ADDITIONAL MICHIGAN CONSTITUTIONAL VIOLATIONS

169. District Defendants incorporate herein by reference their Answers to Paragraphs 1 – 168 of Plaintiff's First Amended Complaint as if set forth herein in its entirety, word for word.

170. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint in its entirety, including the allegations delineated in subparagraphs (a.) – (b.) of Plaintiff's First Amended Complaint.

171. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

172. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

173. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

COUNT XII
ABUSE OF PROCESS

174. District Defendants incorporate herein by reference their Answers to Paragraphs 1 – 173 of Plaintiff's First Amended Complaint as if set forth herein in its entirety, word for word.

175. The District Defendants make no response regarding the legal authority cited in said Paragraph of Plaintiff's First Amended Complaint as same speaks for itself and calls for a legal conclusion, of which the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

176. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

177. The District Defendants deny any corroborating acts, including acts delineated in the eight (8) bullet points cited in said Paragraph of Plaintiff's First Amended Complaint, of which the District Defendants deny any liability and/or damages in connection with the allegations contained in the Plaintiff's First Amended Complaint.

178. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

179. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

180. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

181. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

COUNT XIII
GROSS NEGLIGENCE

182. District Defendants incorporate herein by reference their Answers to Paragraphs 1 – 181 of Plaintiff's First Amended Complaint as if set forth herein in its entirety, word for word.

183. The District Defendants admit the allegations of said Paragraph of Plaintiff's First Amended Complaint upon information and belief.

184. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

185. The District Defendants admit to no duty other than what is required of them pursuant to federal and/or state authority, of which the District Defendants deny any liability and/or damages in connection with any breach of duty, as well as the allegations contained in the entirety of the Plaintiff's First Amended Complaint.

186. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

187. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

188. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

189. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

190. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

191. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

COUNT XIV
DEFAMATION

192. District Defendants incorporate herein by reference their Answers to Paragraphs 1 – 191 of Plaintiff's First Amended Complaint as if set forth herein in its entirety, word for word.

193. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

194. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

195. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

196. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

197. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

198. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

COUNT XV
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

199. District Defendants incorporate herein by reference their Answers to Paragraphs 1 – 198 of Plaintiff's First Amended Complaint as if set forth herein in its entirety, word for word.

200. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

201. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

202. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

203. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

204. The District Defendants deny the allegations of said Paragraph of Plaintiff's First Amended Complaint as being legally and factually untrue.

PRAYER FOR RELIEF

WHEREFORE, District Defendants deny the Plaintiff is entitled to the damages contained in subparagraphs (a.) – (d.).

NEW MATTER & AFFIRMATIVE DEFENSES

NOW COME the above-named Defendants, ONAWAY AREA COMMUNITY SCHOOLS, MARTY MIX, ROD FULLERTON, MICHAEL BENSON, MICHAEL HART & MINDY HORN, by and through their Attorney, GREGORY W. MAIR, and, by way of New Matter and Affirmative Defenses, will show as follows:

A.

District Defendants will show that, at all times relevant hereto, they acted without malice, ill will and in good faith in performance of their duties and, as a result are immune from suit and recovery by Plaintiff in this case.

B.

District Defendants will show that the Plaintiff has failed to prove any deprivation of a federal or state right, nor has Plaintiff alleged or proven any act of deprivation taken under color of law sufficient to maintain an action based on violation of the 1st, 4th and 14th Amendments of the United States Constitution or

42 U.S.C. § 1983, 42 U.S.C. § 1985 and 42 U.S.C. § 1986 as more fully alleged in the Plaintiff's First Amended Complaint.

C.

That the proofs will show that District Defendants were guided by and strictly observed all legal duties and obligations imposed by law or otherwise; and, further, in all actions of any of District Defendants' agents, servants, employees or associates were careful, prudent, proper and lawful.

D.

That Plaintiff's First Amended Complaint is barred by the applicable statute of limitations.

E.

That the proofs will show that the Plaintiff failed to timely notify the District Defendants of all actions complained of.

F.

That any injury or damage complained of relative in the Plaintiff's First Amended Complaint was proximately caused by herself and/or third persons not under the control of the District Defendants.

G.

That the Plaintiff has failed to mitigate the claimed damages.

H.

That the District Defendants were engaged in a performance of governmental functions and are, therefore, immune from suit for civil damages for this claim pursuant to the principles of governmental immunity as set forth in the case law and statutes of this state.

I.

That the District Defendants are entitled to qualified immunity relative to Plaintiff's claims.

J.

That the District Defendants rely upon the fact that there was no intent to injure the Plaintiff at any time.

K.

That the District Defendants rely on the defense of truth in connection with the Plaintiff's claims of defamation.

L.

That the District Defendants claim privilege, absolute or otherwise, relative to the claims lodged by the Plaintiff.

M.

That the proofs may show that the Plaintiff was a public figure in connection with her claims of defamation and is, therefore, unable to prove actual malice attributable to the District Defendants.

N.

That any alleged defamatory statements are not attributable to the District Defendants, were not published by the District Defendants and were published by the Plaintiff and others with her knowledge and consent.

O

That many of the allegations against the District Defendants relate to conduct for which it has no control including arrest, issuance of criminal charges, execution of search warrants and conducting criminal proceedings against the Plaintiff and, therefore, fail as a matter of law.

P.

That the Plaintiff was provided all due process in connection with the decisions of the District to enforce its policies, including its ability to issue a no trespass order relative to the offending conduct exhibited by the Plaintiff as admitted in her First Amended Complaint.

Q.

That the District Defendants, ONAWAY AREA COMMUNITY SCHOOLS, MARTY MIX, ROD FULLERTON, MICHAEL BENSON, MICHAEL HART & MINDY HORN, reserve the right to amend their Affirmative Defenses during the course of this litigation.

Respectfully Submitted,

Dated: August 19, 2022

/s/ Gregory W. Mair
GREGORY W. MAIR (P67465)
Attorney for Defendants ONAWAY
SCHOOLS, MIX, FULLERTON,
BENSON, HART & HORN
300 St. Andrews Road, Suite 302
Saginaw, Michigan 48638

DEMAND FOR JURY

NOW COME the above-named Defendants, ONAWAY AREA COMMUNITY SCHOOLS, MARTY MIX, ROD FULLERTON, MICHAEL BENSON, MICHAEL HART & MINDY HORN, by and through their Attorney, GREGORY W. MAIR, and hereby demands a jury in the Trial of the above entitled cause of action.

Respectfully Submitted,

Dated: August 19, 2022

/s/ Gregory W. Mair
GREGORY W. MAIR (P67465)
Attorney for Defendants ONAWAY
SCHOOLS, MIX, FULLERTON,
BENSON, HART & HORN
300 St. Andrews Road, Suite 302
Saginaw, Michigan 48638

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send confirmation of such filing to the following:

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Respectfully submitted,

Date: August 19, 2022

s/GREGORY W. MAIR (P67465)
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